

98TH CONGRESS
1ST SESSION

H. R. 3646

To amend the authorities contained in the Export Administration Act of 1979,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1983

Mr. BONKER (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. HAMILTON, Mr. SOLARZ, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEDDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. GARCIA, Mr. WINN, Mr. PRITCHARD, Mr. LEACH of Iowa, Mr. BREUTER, and Mr. ZSCHAU) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To amend the authorities contained in the Export Administration Act of 1979, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. Titles I and II of this Act may be cited as the “Export Administration Amendments Act of 1983”.

1 **TITLE I—AMENDMENTS TO EXPORT**
2 **ADMINISTRATION ACT OF 1979**

3 **REFERENCE TO THE ACT**

4 **SEC. 101.** For purposes of this title, the Export Admin-
5 istration Act of 1979 shall be referred to as “the Act”.

6 **VIOLATIONS**

7 **SEC. 102.** (a) Section 11(b) of the Act (50 U.S.C. App.
8 2410(b)) is amended by inserting after paragraph (2) the fol-
9 lowing new paragraphs:

10 “(3) Any person who conspires or attempts to export
11 anything contrary to any provision of this Act or any regula-
12 tion, order, or license issued under this Act shall be subject to
13 the penalties set forth in subsection (a), except that in the
14 case of a violation of an export control imposed under section
15 5 of this Act, such person shall be subject to the penalties set
16 forth in paragraph (1) of this subsection.

17 “(4) Any person who possesses any goods or technol-
18 ogy—

19 “(A) with the intent to export such goods or tech-
20 nology in violation of an export control imposed under
21 section 5 or 6 of this Act or any regulation, order, or
22 license issued with respect to such control; or

23 “(B) knowing or having reason to believe that the
24 goods or technology would be so exported;

1 shall, in the case of a violation of an export control imposed
2 under section 5, be subject to the penalties set forth in para-
3 graph (1) of this subsection and shall, in the case of a viola-
4 tion of an export control imposed under section 6, be subject
5 to the penalties set forth in subsection (a).

6 “(5) Any person who takes any action with the intent to
7 evade the provisions of this Act or any regulation, order, or
8 license issued under this Act shall be subject to the penalties
9 set forth in subsection (a), except that in the case of an eva-
10 sion of a foreign policy or national security control, such
11 person shall be subject to the penalties set forth in paragraph
12 (1) of this subsection.”.

13 (b) Section 11(c) of the Act is amended by adding at the
14 end thereof the following new paragraph:

15 “(3) An exception to any order issued under this Act
16 which revokes the authority of a United States person to
17 export goods or technology may not be made unless the
18 Committee on Foreign Affairs of the House of Representa-
19 tives and the Committee on Banking, Housing, and Urban
20 Affairs of the Senate are first consulted concerning the ex-
21 ception.”.

22 (c) Section 11(e) of the Act is amended by inserting “or
23 any property interest or proceeds forfeited pursuant to sub-
24 section (f)” after “subsection (c)”.

25 (d) Section 11 of the Act is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

3 (2) by inserting after subsection (e) the following
4 new subsection:

5 “(f) FORFEITURE OF PROPERTY INTEREST AND PRO-
6 CEEDS.—Any person who is convicted of a violation of an
7 export control imposed under section 5 of this Act shall, in
8 addition to any other penalty, forfeit to the United States (1)
9 any property interest that person has in the goods or technol-
10 ogy that were the subject of the violation or that were used
11 to facilitate the commission of the violation, and (2) any pro-
12 ceeds derived directly or indirectly by that person from the
13 transaction from which the violation arose.”.

(c) Section 11(h) of the Act, as redesignated by subsection (d) of this section, is amended by striking out “or (f)” and inserting in lieu thereof “(f), or (g)”.

17 ENFORCEMENT AUTHORITY

18 SEC. 103. Section 12(a) of the Act (50 U.S.C. App.
19 2411(a)) is amended—

(1) by inserting “(1)” immediately before the first sentence; and

22 (2) by adding at the end thereof the following new
23 paragraphs:

1 “(2) The Secretary may designate any officer or em-
2 ployee of the Department of Commerce to do the following in
3 carrying out enforcement authorities under this Act:

4 “(A) Execute any warrant or other process issued
5 by a court or officer of competent jurisdiction with re-
6 spect to the enforcement of the provisions of this Act.

7 “(B) Make arrests without warrant for any viola-
8 tion of this Act committed in his or her presence or
9 view, or if the officer or employee has probable cause
10 to believe that the person to be arrested has committed
11 or is committing such a violation.

12 “(C) Search without warrant or process any
13 person, place, or vehicle on which, and any baggage in
14 which, the officer or employee has probable cause to
15 believe there are goods or technology being exported
16 or about to be exported in violation of this Act.

17 “(D) Seize without warrant or process any goods
18 or technology which the officer or employee has prob-
19 able cause to believe have been, are being, or are
20 about to be exported in violation of this Act.

21 “(E) Carry firearms in carrying out any activity
22 described in subparagraphs (A) through (D).

23 “(3)(A) Notwithstanding any other provision of law; the
24 authority of customs officers with respect to violations of this
25 Act shall be limited to (i) inspection of or other search for and

1 detention and seizure of goods or technology at those places
2 in which such officers are authorized by law to conduct such
3 searches, detentions, and seizures, and (ii) any investigation
4 conducted prior to such inspection, search, detention, or sei-
5 zure. Upon seizure by any customs officer of any goods or
6 technology in the enforcement of this Act, the matter shall be
7 referred to the Department of Commerce for further investi-
8 gation and other appropriate action under this Act.

9 “(B) In conducting inspections of goods and technology
10 in the enforcement of this Act, the United States Customs
11 Service shall limit those inspections to goods and technology
12 with respect to which the Customs Service has received spe-
13 cific information of possible violations of this Act, and shall
14 not conduct random inspections which would result in the
15 detainment of shipments of goods or technology that are in
16 full compliance with this Act.

17 “(C) Notwithstanding any other provision of law, not
18 more than \$14,000,000 may be expended by the United
19 States Customs Service in any fiscal year in the enforcement
20 of export controls.

21 “(4) All provisions of law relating to the seizure, forfeit-
22 ure, and condemnation of articles for violations of the cus-
23 toms laws, the disposition of such articles or the proceeds
24 from the sale thereof, and the remission or mitigation of such
25 forfeitures, shall apply to the seizures and forfeitures in-

1 incurred, or alleged to have been incurred, under the provisions
2 of this subsection or section 11(f) of this Act, insofar as such
3 provisions of law are applicable and not inconsistent with the
4 provisions of this subsection or section 11(f) of this Act;
5 except that all powers, rights, and duties conferred or im-
6 posed by the customs laws upon any officer or employee of
7 the Department of the Treasury shall, for the purposes of this
8 subsection and section 11(f) of this Act, be exercised or per-
9 formed by the Secretary or by such persons as the Secretary
10 may designate.”.

11 **FINDINGS; DECLARATION OF POLICY**

12 **SEC. 104. (a)(1)** Section 2 of the Act (50 U.S.C. App.
13 2401) is amended in paragraph (3) by striking out “which
14 would strengthen the Nation’s economy” and inserting in lieu
15 thereof “consistent with the economic, security, and foreign
16 policy objectives of the United States”.

17 **(2)** Section 2 of the Act is further amended by adding at
18 the end thereof the following:

19 “(10) It is important that the administration of
20 export controls imposed for foreign policy purposes
21 give special emphasis to the need to control exports of
22 goods and substances hazardous to the public health
23 and the environment that are banned or severely re-
24 stricted for use in the United States, which exports

1 could affect the international reputation of the United
2 States as a responsible trading partner.”.

3 (b) Section 3 of the Act (50 U.S.C. App. 2402) is
4 amended by adding at the end thereof the following:

5 “(12) It is the policy of the United States to sus-
6 tain vigorous scientific enterprise. To do so requires
7 protecting the ability of scientists and other scholars
8 freely to communicate their research findings by means
9 of publication, teaching, conferences, and other forms
10 of scholarly exchange.

11 “(13) It is the policy of the United States to con-
12 trol the export of goods and substances banned or se-
13 verely restricted for use in the United States in order
14 to foster public health and safety and to prevent injury
15 to the foreign policy of the United States as well as
16 the credibility of the United States as a responsible
17 trading partner.”.

18 TYPES OF LICENSES

19 Sec. 105. Section 4(a)(2) of the Act (50 U.S.C. App.
20 2403(a)(2)) is amended to read as follows:

21 “(2) Licenses authorizing multiple exports, issued
22 pursuant to an application by the exporter, in lieu of a
23 validated license for each such export, including but
24 not limited to the following:

1 “(A) A qualified general license, authorizing
2 exports of goods for approved end uses.

3 “(B) A distribution license, authorizing ex-
4 ports of goods to approved distributors or users of
5 the goods.

6 “(C) A project license, authorizing exports of
7 goods or technology for a specified activity.

8 “(D) A service supply license, authorizing
9 exports of spare or replacement parts for goods
10 previously exported.

11 “(E) A comprehensive operations license,
12 authorizing exports of goods or technology be-
13 tween and among a domestic concern and foreign
14 subsidiaries, affiliates, vendors, joint venturers,
15 and licensees of that concern which are approved
16 by the Secretary.”.

17 NATIONAL SECURITY CONTROLS

18 SEC. 106. (a) Section 5(a)(1) of the Act (50 U.S.C. App
19 2404(a)(1)) is amended by inserting after the first sentence
20 the following new sentence: “The authority contained in this
21 subsection includes the authority to prohibit or curtail the
22 transfer of goods or technology within the United States to
23 embassies and affiliates of countries to which exports of such
24 goods or technology are controlled under this section.”.

1 (b) Section 5(b) of the Act is amended by adding at the
2 end thereof the following new sentence: "No authority or
3 permission to export may be required under this section
4 before goods or technology are exported in the case of ex-
5 ports to a country which maintains export controls on such
6 goods or technology cooperatively with the United States,
7 except that the Secretary may require an export license for
8 the export of such goods or technology to such end users as
9 the Secretary may specify by regulation. The Secretary may
10 also by regulation require any person exporting any such
11 goods or technology otherwise subject to export controls
12 under this section to notify the Department of Commerce of
13 those exports."

14 (c) Section 5(e) of the Act is amended by adding at the
15 end thereof the following:

16 "(5) The export of technology and related goods subject
17 to export controls under this section, including items on the
18 list of militarily critical technologies developed pursuant to
19 subsection (d) of this section, shall be eligible for a compre-
20 hensive operations license which would authorize, over a
21 period of years and to countries other than those described in
22 section 620(f) of the Foreign Assistance Act of 1961, multi-
23 ple exports and reexports between and among a domestic
24 concern and foreign subsidiaries, affiliates, vendors, joint ven-

1 turers, and licensees of that concern which are approved by
2 the Secretary.

3 “(6) The export to countries other than those described
4 in section 620(f) of the Foreign Assistance Act of 1961 of
5 goods and technology subject to export controls under this
6 section shall be eligible for a distribution license or other li-
7 censes authorizing multiple exports. The Secretary shall peri-
8 odically monitor exports made pursuant to such licenses in
9 order to insure compliance with the provisions of this Act.”.

10 (d) Section 5(g) of the Act is amended—

11 (1) in the second sentence by striking out “by the
12 latest such increase” and inserting in lieu thereof “by
13 the regulations”; and

14 (2) by inserting after the first sentence the follow-
15 ing: “The regulations issued by the Secretary shall es-
16 tablish as one criterion for the removal of goods or
17 technology from such license requirements the antici-
18 pated needs of the military of countries to which ex-
19 ports are controlled for national security purposes.”.

20 (e) Section 5(k) of the Act is amended—

21 (1) by inserting “, including those countries not
22 participating in the group known as the Coordinating
23 Committee,” after “other countries”; and

24 (2) by striking out “section 3(9)” and inserting in
25 lieu thereof “paragraphs (9) and (10) of section 3”.

1 (f) Section 5 of the Act is amended by adding at the end
2 thereof the following new subsections:

3 “(m) REMOVAL OF CERTAIN CONTROLS.—(1) In any
4 case in which, during any 1-year period in which export li-
5 cense applications have been filed for the export of a good
6 subject to an export control under this section, all such li-
7 cense applications have been approved to a country group,
8 the Secretary shall, at the end of that 1-year period, remove
9 the export control on exports of that good to that country
10 group, except that the Secretary may require an export li-
11 cense for the export of that good to such end users in that
12 country group as the Secretary may specify by regulation.

13 “(2) This subsection shall not apply to export controls
14 which the United States maintains cooperatively with any
15 other country.

16 “(n) GOODS CONTAINING MICROPROCESSORS.—
17 Export controls may not be imposed under this section on a
18 good solely on the basis that the good contains an embedded
19 microprocessor, if such microprocessor cannot be used or al-
20 tered to perform functions other than those it performs in the
21 good in which it is embedded. An export control may be im-
22 posed under this section on a good containing such a micro-
23 processor only on the basis that the functions of the good
24 itself are such that the good, if exported, would make a sig-
25 nificant contribution to the military potential of any other

1 country or combination of countries which would prove detri-
2 mental to the national security of the United States.”.

3 **COORDINATING COMMITTEE**

4 **SEC. 107.** Section 5(i) of the Act (50 U.S.C. App.
5 2404(i)) is amended by adding at the end thereof the follow-
6 ing:

7 “(5) Agreement to improve the International Con-
8 trol List and minimize the approval of exceptions to
9 that list, strengthen enforcement and cooperation in en-
10 forcement efforts, provide sufficient funding for the
11 Committee, and improve the structure and function of
12 the Secretariat of the Committee by upgrading profes-
13 sional staff, translation services, data base mainte-
14 nance, communications, and facilities.

15 “(6) Agreement to strengthen the Committee so
16 that it functions effectively in controlling export trade
17 in a manner that better protects the national security
18 of each participant to the benefit of all participants.”.

19 **FOREIGN AVAILABILITY**

20 **SEC. 108.** (a) Section 5(f)(4) of the Act (50 U.S.C. App.
21 2404(f)(4)) is amended by striking out the first sentence and
22 inserting in lieu thereof the following: “In any case in which
23 export controls are maintained under this section notwith-
24 standing foreign availability, on account of a determination
25 by the President that the absence of the controls would prove

1 detrimental to the national security of the United States, the
2 President shall take the necessary steps to conduct negotia-
3 tions with the governments of the appropriate foreign coun-
4 tries for the purpose of eliminating such availability. If,
5 within 6 months after the President's determination, the for-
6 eign availability has not been eliminated, the Secretary may
7 not, after the end of that 6-month period, require a validated
8 license for the export of the goods or technology involved.”.

9 (b) Section 5(f)(3) of the Act is amended to read as fol-
10 lows:

11 “(3) With respect to export controls imposed under this
12 section, in making any determination of foreign availability,
13 the Secretary shall accept the representations of applicants
14 unless such representations are contradicted by reliable evi-
15 dence, including scientific or physical examination, expert
16 opinion based upon adequate factual information, and intelli-
17 gence information.”.

18 (c)(1) Section 5(f)(5) of the Act is amended to read as
19 follows:

20 “(5) The Secretary shall establish in the Department of
21 Commerce an Office of Foreign Availability which shall be
22 under the direction of the Assistant Secretary of Commerce
23 for Trade Administration. The Office shall be responsible for
24 gathering and analyzing all the necessary information in
25 order for the Secretary to make determinations of foreign

1 availability under this Act. The Secretary shall make availa-
2 ble to the Committee on Foreign Affairs of the House of
3 Representatives and the Committee on Banking, Housing,
4 and Urban Affairs of the Senate at the end of each 6-month
5 period during a fiscal year information on the operations of
6 the Office during that 6-month period. Such information shall
7 include a description of every determination made under this
8 Act during that 6-month period that foreign availability did
9 not exist, together with an explanation of that determina-
10 tion.”.

11 (2) Section 5(f)(6) of the Act is amended by striking out
12 “Office of Export Administration” and inserting in lieu there-
13 of “Office of Foreign Availability”.

14 (d) Section 5(f) of the Act is amended by adding at the
15 end thereof the following new paragraph:

16 “(7) The Secretary shall issue regulations with respect
17 to determinations of foreign availability under this Act not
18 later than 6 months after the date of the enactment of the
19 Export Administration Amendments Act of 1983.”.

20 (e) Section 5(h)(6) of the Act is amended by striking out
21 “and provides adequate documentation” and all that follows
22 through the end of the paragraph and inserting in lieu thereof
23 the following: “the technical advisory committee shall submit
24 that certification to the Congress at the same time the certifi-
25 cation is made to the Secretary, together with the documen-

1 tation for the certification, in accordance with the procedures
2 established pursuant to subsection (f)(1) of this section. The
3 Secretary shall investigate the foreign availability so certified
4 and, not later than 90 days after the certification is made,
5 shall submit a report to the technical advisory committee and
6 the Congress stating that (A) the Secretary has removed the
7 requirement of a validated license for the export of the goods
8 or technology, on account of the foreign availability, (B) the
9 Secretary has recommended to the President that negotia-
10 tions be conducted to eliminate the foreign availability, or (C)
11 the Secretary has determined on the basis of the investigation
12 that the foreign availability does not exist. To the extent nec-
13 essary, the report may be submitted on a classified basis. In
14 any case in which the Secretary has recommended to the
15 President that negotiations be conducted to eliminate the for-
16 eign availability, the President shall take the necessary steps
17 to conduct such negotiations with the governments of the ap-
18 propriate foreign countries. If, within 6 months after the Sec-
19 retary submits such report to the Congress, the foreign avail-
20 ability has not been eliminated, the Secretary may not, after
21 the end of that 6-month period, require a validated license for
22 the export of the goods or technology involved.”.

1 MILITARILY CRITICAL TECHNOLOGIES

2 SEC. 109. Section 5(d) of the Act (50 U.S.C. App.
3 2404(d)) is amended by striking out paragraphs (4) through
4 (6) and inserting in lieu thereof the following:

5 “(4)(A) The Secretary and the Secretary of Defense
6 shall complete the integration of the list of militarily critical
7 technologies into the commodity control list not later than
8 April 1, 1985. The integration of the list of militarily critical
9 technologies into the commodity control list shall be complet-
10 ed with all deliberate speed, and the Secretary and the Sec-
11 retary of Defense shall report to the appropriate committees
12 of the Congress, before April 1, 1985, any circumstances
13 which would preclude the completion of the integrated list by
14 that date. Such integrated list shall include only a good or
15 technology with respect to which the Secretary finds that
16 countries to which exports are controlled under this section
17 do not possess that good or technology, or a similar good or
18 technology, and the good or technology or similar good or
19 technology is not available in fact to such a country from
20 sources outside the United States in sufficient quantity and of
21 sufficient quality so that the requirement of a validated li-
22 cense for the export of such good or technology is or would
23 be ineffective in achieving the purpose set forth in subsection
24 (a) of this section, except in the case of a determination of the
25 President with respect to goods or technology under subsec-

1 tion (f)(1) of this section. The Secretary and the Secretary of
2 Defense shall jointly submit a report to the Congress, not
3 later than April 1, 1985, on actions taken to carry out this
4 subparagraph. In any case in which it is determined that a
5 good or technology should be included on the commodity con-
6 trol list completed pursuant to this subparagraph notwith-
7 standing foreign availability, the report to Congress shall
8 specify why inclusion of that good or technology would sig-
9 nificantly benefit United States military or national security.

10 “(B) The General Accounting Office shall evaluate the
11 efforts of the Secretary and the Secretary of Defense to inte-
12 grate the list of militarily critical technologies into the com-
13 modity control list, and the feasibility of such integration. In
14 conducting such evaluation, the General Accounting Office
15 shall determine whether foreign availability was used as a
16 criterion in developing the commodity control list pursuant to
17 subparagraph (A) and whether the completed list reflected
18 the intent of the Congress in enacting this subsection. In con-
19 ducting such evaluation, the General Accounting Office shall
20 have access to all information relating to the list of militarily
21 critical technologies, and representatives of the General Ac-
22 counting Office designated by the Comptroller General may
23 attend any meetings held in the executive branch with re-
24 spect to such list. The appropriate officers or employees shall
25 notify the General Accounting Office of when and where any

1 such meeting will be held. Not later than April 1, 1985, the
2 General Accounting Office shall submit a detailed report to
3 the Congress on the results of the evaluation conducted pur-
4 suant to this subparagraph.

5 “(C) The Secretary and the Secretary of Defense, in
6 completing the commodity control list pursuant to subpara-
7 graph (A), and the General Accounting Office, in conducting
8 the evaluation pursuant to subparagraph (B), shall consider
9 mechanisms to reduce significantly the list of militarily criti-
10 cal technologies, including evaluating for possible removal
11 from the list those goods or technology which are in one or
12 more of the following categories:

13 “(i) Goods and technology the transfer of which
14 would not lead to a significant near-term improvement
15 in the defense capability of a country to which exports
16 are controlled under this section.

17 “(ii) A technology that is evolving slowly.

18 “(iii) Technology that is not process-oriented.

19 “(iv) Components used in militarily sensitive de-
20 vices that in themselves are not sensitive.

21 “(D) The reports submitted pursuant to subparagraphs
22 (A) and (B) shall each include the results of the evaluation of
23 the goods and technology set forth in subparagraph (C) and
24 an evaluation of the feasibility of effectively imposing export

1 controls on technologies as opposed to goods which are the
2 products of those technologies.”.

3 CRITERIA FOR FOREIGN POLICY CONTROLS; CONSULTA-
4 TION WITH OTHER COUNTRIES; REPORT TO CON-
5 GRESS

6 SEC. 110. (a) Section 6(b) of the Act (50 U.S.C. App.
7 2405(b)) is amended to read as follows:

8 “(b) CRITERIA.—When imposing, expanding, or ex-
9 tending export controls on goods or technology under this
10 section, the President shall consider whether—

11 “(1) the intended foreign policy purposes of the
12 proposed controls can be achieved through negotiations
13 or other alternative means;

14 “(2) the proposed controls are compatible with the
15 foreign policy objectives of the United States and with
16 overall United States policy toward the country to
17 which exports are to be subject to the proposed con-
18 trols;

19 “(3) the proposed controls will have an adverse
20 effect on the economic or political relations of the
21 United States with other friendly countries;

22 “(4) the proposed controls will have a substantial
23 adverse effect on the export performance of the United
24 States, on the competitive position of the United States
25 in the international economy, on the international repu-

1 tation of the United States as a reliable supplier of
2 goods and technology, or on the economic well-being of
3 individual United States industries, companies, and
4 their employees and communities;

5 “(5) the United States has the ability to enforce
6 the proposed controls effectively;

7 “(6) the proposed controls are likely to achieve
8 the intended foreign policy purpose; and

9 “(7)(A) the good or technology, or a similar good
10 or technology, is available in sufficient quantity from
11 sources outside the United States to the country to
12 which exports are to be subject to the proposed con-
13 trols, or (B) negotiations have been successfully con-
14 cluded with the appropriate foreign governments to
15 ensure the cooperation of such governments in control-
16 ling the export of such good or technology to the coun-
17 try to which exports are to be subject to the proposed
18 controls, except that the preceding provisions of this
19 paragraph shall not apply if the President determines
20 that the proposed controls are necessary to further ef-
21 forts by the United States to counter international ter-
22 rorism or to promote observance of internationally rec-
23 ognized human rights.”.

24 (b) Section 6 of the Act is amended—

1 (1) by redesignating subsections (d) through (k) as
2 subsections (e) through (l), respectively; and

3 (2) by inserting after subsection (e) the following
4 new subsection:

5 “(d) CONSULTATION WITH OTHER COUNTRIES.—
6 Before export controls are imposed under this section, the
7 President should consult with the countries with which the
8 United States maintains export controls cooperatively, and
9 with such other countries as the President considers appro-
10 priate, with respect to the criteria set forth in subsection (b)
11 and such other matters as the President considers appropri-
12 ate.”.

13 (c) Section 6(f) of the Act, as redesignated by subsection
14 (b)(1) of this section, is amended to read as follows:

15 “(f) CONSULTATION WITH THE CONGRESS.—(1) The
16 President may impose, expand, or extend export controls
17 under this section only after consultation with the Committee
18 on Foreign Affairs of the House of Representatives and the
19 Committee on Banking, Housing, and Urban Affairs of the
20 Senate.

21 “(2) Following consultation with the Congress in ac-
22 cordance with paragraph (1) and before imposing, expanding,
23 or extending export controls under this section, the President
24 shall submit to the Congress a report—

1 “(A) indicating how the proposed export controls
2 will further, significantly, the foreign policy of the
3 United States or will further its declared international
4 obligations;

5 “(B) specifying the conclusions of the President
6 with respect to each of the criteria set forth in subsec-
7 tion (b), and any possible adverse foreign policy conse-
8 quences;

9 “(C) describing the nature, the subjects, and the
10 results of the consultation with industry pursuant to
11 subsection (c) and with other countries pursuant to sub-
12 section (d);

13 “(D) specifying the nature and results of any al-
14 ternative means attempted under subsection (e), or the
15 reasons for imposing, expanding, or extending the con-
16 trols without attempting any such alternative means;
17 and

18 “(E) describing the availability from other coun-
19 tries of goods or technology comparable to the goods
20 or technology subject to the proposed export controls,
21 and describing the nature and results of the efforts
22 made pursuant to subsection (h) to secure the coopera-
23 tion of foreign governments in controlling the foreign
24 availability of such comparable goods or technology.

1 The concerns expressed by Members of Congress during the
 2 consultations required by this subsection shall be specifically
 3 addressed in each report submitted pursuant to this para-
 4 graph.

5 “(3) To the extent necessary to further the effectiveness
 6 of the export controls, portions of a report required by para-
 7 graph (2) may be submitted to the Congress on a classified
 8 basis, and shall be subject to the provisions of section 12(c) of
 9 this Act.

10 “(4) In the case of export controls under this section
 11 which prohibit or curtail the export of any agricultural com-
 12 modity, a report submitted pursuant to paragraph (2) shall be
 13 deemed to be the report required by section 7(g)(3) of this
 14 Act.”.

15 (d) Section 6(i) of the Act, as redesignated by subsection
 16 (b)(1) of this section, is amended by striking out “(f), and (g)”
 17 and inserting in lieu thereof “(e), (g), and (h)”.

18 EFFECT OF CONTROLS ON EXISTING CONTRACTS AND
 19 LICENSES

20 SEC. 111. (a) Section 6 of the Act (50 U.S.C. App.
 21 2405), as amended by section 110 of this Act, is further
 22 amended by adding at the end thereof the following new sub-
 23 section:

24 “(m) EFFECT OF CONTROLS ON EXISTING CON-
 25 TRACTS AND LICENSES.—Any export controls imposed

1 under this section shall not affect any contract to export en-
2 tered into before the date on which such controls are imposed
3 or any export license issued under this Act before such date.
4 The preceding sentence shall not apply in a case in which the
5 export controls imposed relate directly, immediately, and sig-
6 nificantly to actual or imminent acts of aggression or of inter-
7 national terrorism, to actual or imminent gross violations of
8 internationally recognized human rights, or to actual or im-
9 minent nuclear weapons tests, in which case the President
10 shall promptly notify the Congress of the circumstances to
11 which the export controls relate and of the contracts or li-
12 censes affected by the controls. Any export controls described
13 in the preceding sentence shall affect existing contracts and
14 licenses only so long as the acts of aggression or terrorism,
15 violations of human rights, or nuclear weapons tests continue
16 or remain imminent. For purposes of this subsection, the
17 term 'contract to export' includes, but is not limited to, an
18 export sales agreement and an agreement to invest in an en-
19 terprise which involves the export of goods or technology.”.

20 (b) Section 7 of the Act (50 App. 2406) is amended by
21 adding at the end thereof the following new subsection:

22 “(k) EFFECT OF CONTROLS ON EXISTING CON-
23 TRACTS.—Any export controls imposed under this section
24 shall not affect any contract to export entered into before the
25 date on which such controls are imposed, including any con-

1 tract to harvest unprocessed western red cedar (as defined in
 2 subsection (i)(4) of this section) from State lands, the perform-
 3 ance of which contract would make the red cedar available
 4 for export. For purposes of this subsection, the term 'contract
 5 to export' includes, but is not limited to, an export sales
 6 agreement and an agreement to invest in an enterprise which
 7 involves the export of goods or technology.'".

8 (c) The amendment made by subsection (a) shall not
 9 apply to export controls imposed before the date of the enact-
 10 ment of this Act. The amendment made by subsection (b)
 11 shall apply to export controls in effect on the date of the
 12 enactment of this Act and export controls imposed after such
 13 date.

14 EXEMPTION FROM FOREIGN POLICY CONTROLS

15 SEC. 112. Section 6(g) of the Act (50 U.S.C. App.
 16 2405(g)), as redesignated by section 110(b)(1) of this Act, is
 17 amended—

18 (1) by inserting after the first sentence the follow-
 19 ing: "This section also does not authorize export con-
 20 trols on donations of goods, such as food and clothing,
 21 intended to be used to relieve human suffering."; and

22 (2) by adding at the end thereof the following:
 23 "The President may impose export controls under this
 24 section on medicine, medical supplies, food, and dona-
 25 tions of goods without regard to the other provisions of

1 this subsection in order to carry out the policy set forth
2 in paragraph (13) of section 3 of this Act.”.

3 FOREIGN POLICY CONTROLS AUTHORITY

4 SEC. 113. (a) The first sentence of section 6(a)(1) of the
5 Act (50 U.S.C. App. 2405(a)(1)) is amended to read as fol-
6 lows: “In order to carry out the policy set forth in paragraph
7 (2)(B), (7), (8), or (13) of section 3 of this Act, the President
8 may prohibit or curtail the exportation from the United
9 States of any goods, technology, or other information pro-
10 duced in the United States, to the extent necessary to further
11 significantly the foreign policy of the United States or to ful-
12 fill its declared international obligations.”.

13 (b) Section 6(a) of the Act is further amended by redes-
14 ignating paragraphs (2) through (4) as paragraphs (3) through
15 (5), respectively, and by inserting after paragraph (1) the fol-
16 lowing new paragraph:

17 “(2) Any export control imposed under this section shall
18 apply to any transaction or activity undertaken with the
19 intent to evade that export control, even if that export con-
20 trol would not otherwise apply to that transaction or
21 activity.”.

22 (c) Section 6 of the Act, as amended by sections 110
23 and 111 of this Act, is further amended by adding at the end
24 thereof the following new subsection:

1 “(n) EXPANDED AUTHORITY TO IMPOSE CON-
2 TROLS.—(1) In any case in which the President determines
3 that it is necessary to impose controls under this section—

4 “(A) with respect to goods, technology, other in-
5 formation, or persons other than that authorized by
6 subsection (a)(1) of this section; or

7 “(B) without any limitation contained in subsec-
8 tion (c), (d), (e), (g), (h), or (m) of this section,
9 the President may impose those controls only if the President
10 submits that determination to the Congress, together with a
11 report pursuant to subsection (f) of this section with respect
12 to the proposed controls, and only if a law is enacted author-
13 izing the imposition of those controls. If a joint resolution
14 authorizing the imposition of those controls is introduced in
15 either House of Congress within 30 days of continuous ses-
16 sion after the Congress receives the determination and report
17 of the President, that joint resolution shall immediately be
18 referred to the Committee on Banking, Housing, and Urban
19 Affairs of the Senate and the Committee on Foreign Affairs
20 of the House of Representatives. If either such committee
21 has not reported the joint resolution at the end of 30 days of
22 continuous session after its referral, such committee shall be
23 deemed to be discharged from further consideration of the
24 resolution.

1 “(2) For purposes of this subsection, the term ‘joint res-
2 olution’ means a joint resolution the matter after the resolv-
3 ing clause of which is as follows: ‘That the Congress, having
4 received on a determination of the President
5 under section 6(n)(1) of the Export Administration Act of
6 1979 with respect to the export controls which are set forth
7 in the report submitted to the Congress with that determina-
8 tion, authorizes the President to impose those export con-
9 trols.’, with the date of the receipt of the determination and
10 report inserted in the blank.

11 “(3) For purposes of this subsection—

12 “(A) continuity of session is broken only by an
13 adjournment of the Congress sine die, and

14 “(B) the days on which either House is not in ses-
15 sion because of an adjournment of more than 3 days to
16 a day certain are excluded in the computation of any
17 period of time in which Congress is in continuous
18 session.”.

19 (d) The amendments made by subsections (a), (b), and (c)
20 of this section shall not apply to export controls imposed
21 under section 6 of the Act before the date of the enactment of
22 this Act which are extended in accordance with such section
23 6 on or after such date of enactment.

1 CRIME CONTROL INSTRUMENTS

2 SEC. 114. (a) Section 6(k)(1) of the Act (50 U.S.C. App.
3 2405(k)(1)), as redesignated by section 110(b)(1) of this Act,
4 is amended by adding at the end thereof the following new
5 sentence: “Notwithstanding any other provision of this Act,
6 any determination of the Secretary—

7 “(A) of what goods or technology shall be includ-
8 ed on the list established pursuant to subsection (l) of
9 this section as a result of the export restrictions im-
10 posed by this subsection shall be made with the con-
11 currence of the Secretary of State, or

12 “(B) to approve or deny an export license applica-
13 tion to export crime control or detection instruments or
14 equipment shall be made in concurrence with the rec-
15 ommendations of the Secretary of State submitted to
16 the Secretary with respect to the application pursuant
17 to section 10(e) of this Act,

18 except that if the Secretary does not agree with the Secre-
19 tary of State with respect to any such determination, the
20 matter shall be referred to the President for resolution.”.

21 (b) The amendment made by subsection (a) shall apply
22 to determinations of the Secretary of Commerce which are
23 made on or after the date of the enactment of this Act.

1 REIMPOSITION OF EXPORT CONTROLS

2 SEC. 115. (a) Section 6 of the Act, as amended by sec-
3 tions 110, 111, and 113 of this Act, is further amended by
4 adding at the end thereof the following new subsection:

5 “(c) EXTENSION OF CERTAIN CONTROLS.—Those
6 export controls imposed under this section which were in
7 effect on February 28, 1982, and ceased to be effective on
8 March 1, 1982, September 15, 1982, or January 20, 1983
9 (except those controls with respect to the 1980 summer
10 Olympic games), shall become effective on the date of the
11 enactment of this subsection, and shall remain in effect until
12 1 year after such date of enactment. At the end of that 1-
13 year period, any of those controls made effective by this sub-
14 section may be extended by the President in accordance with
15 subsections (b) and (f) of this section.”.

16 (b) Section 6(j) of the Act, as redesignated by section
17 110(b)(1) of this Act, is amended by adding at the end thereof
18 the following new sentence: “Any such determination which
19 has been made with respect to a country may not be rescind-
20 ed unless the President first submits to the Congress a report
21 justifying the rescission and certifying that the country con-
22 cerned has not provided support for international terrorism,
23 including support for groups engaged in such terrorism, for
24 the preceding 12-month period.”.

1 (c) The amendment made by subsection (b) shall apply
2 with respect to any export control made effective by the
3 amendment made by subsection (a).

4 PETITIONS FOR SHORT SUPPLY CONTROLS

5 SEC. 116. (a) Section 7(c)(1)(A) of the Act (50 U.S.C.
6 App. 2406(c)(1)(A)) is amended to read as follows:

7 “(c) PETITIONS FOR MONITORING OR CONTROLS.—
8 (1)(A) Any entity, including a trade association, firm, or certi-
9 fied or recognized union or group of workers, which is repre-
10 sentative of an industry or a substantial segment of an indus-
11 try which processes metallic materials capable of being recy-
12 cled (i) with respect to which an increase in domestic prices
13 or a domestic shortage, either of which results from increased
14 exports, is or may be a substantial cause of adverse effect on
15 the national economy or any sector thereof or on a domestic
16 industry, and (ii) with respect to which a significant increase
17 in exports is or may be a substantial cause of adverse effect
18 on the national economy or any sector thereof or on a domes-
19 tic industry, may transmit a written petition to the Secretary
20 requesting the monitoring of exports or the imposition of
21 export controls, or both, with respect to such material, in
22 order to carry out the policy set forth in section 3(2)(C) of
23 this Act.”.

24 (b) Section 7(c)(1)(B) of the Act is amended—

1 (1) in clause (i) by striking out “and” after
2 “supply,”; and

3 (2) by striking out the period at the end thereof
4 and inserting in lieu thereof “, and (iii) that the criteria
5 set forth in paragraph (3)(A) of this subsection are sat-
6 isfied.”.

7 (c) Section 7(c)(1) of the Act is further amended by
8 adding at the end thereof the following:

9 “(C)(i) For purposes of this subsection, the term ‘sub-
10 stantial cause’ means a cause which is important and not less
11 than any other cause.

12 “(ii) Before March 1, 1984, the Secretary shall issue
13 regulations, in accordance with section 553 of title 5, United
14 States Code, which define the operative terms contained in
15 section 3(2)(C) of this Act and in this subsection, including
16 but not limited to the following: ‘excessive drain’, ‘scarce ma-
17 terials’, ‘serious inflationary impact of foreign demand’, ‘do-
18 mestic shortage’, ‘increase in domestic prices’ and ‘increase
19 in the domestic price’, ‘representative of an industry or a
20 substantial segment of an industry’, ‘domestic industry’, ‘spe-
21 cific period of time’, ‘national economy or any sector thereof’,
22 ‘significant increase in exports’, and ‘adverse effect’.”.

23 (d) Section 7(c)(3) of the Act is amended to read as
24 follows:

1 “(3)(A) Within 45 days after the end of the 30-day or
2 45-day period described in paragraph (2), as the case may be,
3 the Secretary shall determine whether to impose monitoring
4 or controls, or both, on the export of the material which is
5 the subject of the petition, in order to carry out the policy set
6 forth in section 3(2)(C) of this Act. In making such determi-
7 nation, the Secretary shall determine whether—

8 “(i) there has been a significant increase, in rela-
9 tion to a specific period of time, in exports of such
10 material;

11 “(ii) there has been a significant increase in the
12 domestic price of such material or a domestic shortage
13 of such material and exports are a substantial cause of
14 such domestic price increase or domestic shortage;

15 “(iii) exports of such material are or may be a
16 substantial cause of adverse effect on the national
17 economy or any sector thereof or on a domestic indus-
18 try; and

19 “(iv) monitoring or controls or both are necessary
20 in order to carry out the policy set forth in section
21 3(2)(C) of this Act.

22 “(B) The Secretary shall publish in the Federal Register
23 a detailed statement of the reasons for the Secretary’s deter-
24 mination pursuant to subparagraph (A) of whether to impose

1 monitoring or controls, or both, including the findings of fact
2 in support of that determination.”.

3 (e) Section 7(c)(6) of the Act is amended to read as
4 follows:

5 “(6) If a petition with respect to a particular material or
6 group of materials has been considered in accordance with all
7 the procedures prescribed in this subsection, the Secretary
8 shall not consider any other petition with respect to the same
9 material or group of materials which is filed within 6 months
10 after final action on the prior petition has been completed.”.

11 (f) Section 7(c) of the Act is further amended—

12 (1) by striking out paragraph (8) and redesignating
13 paragraphs (9) and (10) as paragraphs (8) and (9), re-
14 spectively;

15 (2) by amending paragraph (8), as redesignated by
16 paragraph (1) of this subsection, to read as follows:

17 “(8) The authority under this subsection shall not be
18 construed to affect the authority of the Secretary under any
19 provision of this Act other than this section.”; and

20 (3) by adding at the end thereof the following:

21 “(10) Notwithstanding subsection (a) or (b) of this sec-
22 tion, no action in response to an informal or formal request
23 by any entity described in paragraph (1)(A) of this subsection
24 to impose controls on or monitor the export of metallic mate-
25 rials capable of being recycled shall be taken under this sec-

tion except pursuant to this subsection. The Secretary, in any other case, may not impose controls on or monitor the export of metallic materials capable of being recycled unless the Secretary makes the determination required by paragraph (3)(A) of this subsection with respect to such controls or monitoring and complies with paragraph (3)(B) with respect to that determination.”.

(g) Section 13(a) of the Act is amended by striking out “section 11(c)(2)” and inserting in lieu thereof “sections 7(c)(1)(C)(ii) and 11(c)(2)”.

DOMESTICALLY PRODUCED CRUDE OIL

SEC. 117. Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended—

(1) in paragraph (1) by striking out “unless” and all that follows through “met” and inserting in lieu thereof “subject to paragraph (2) of this subsection”;

(2) in paragraph (2)(A) by striking out “makes and publishes” and inserting in lieu thereof “so recommends to the Congress after making and publishing”;

(3) in paragraph (2)(B)—

(A) by striking out “reports such findings” and inserting in lieu thereof “includes such findings in his recommendation”; and

(B) by striking out “thereafter” and all that follows through the end of the sentence and in-

1 serting in lieu thereof "after receiving that recom-
2 mendation, agrees to a joint resolution approving
3 such exports on the basis of those findings which
4 is thereafter enacted into law."; and

5 (4) by adding at the end thereof the following:

6 "(4) Notwithstanding the provisions of section 20 of this
7 Act, the provisions of this subsection shall expire on Septem-
8 ber 30, 1987."

9 REFINED PETROLEUM PRODUCTS

10 SEC. 118. Section 7(e)(1) of the Act (50 U.S.C. App.
11 2406(e)(1)) is amended in the first sentence by striking out
12 "No" and inserting in lieu thereof "In any case in which the
13 President determines that it is necessary to impose export
14 controls on refined petroleum products in order to carry out
15 the policy set forth in section 3(2)(C) of this Act, the Presi-
16 dent shall notify the Congress of that determination. The
17 President shall also notify the Congress if and when he deter-
18 mines that such export controls are no longer necessary.
19 During any period in which a determination that such export
20 controls are necessary is in effect, no".

21 AGRICULTURAL EXPORTS

22 SEC. 119. (a) Section 7(g)(3) of the Act (50 U.S.C. App.
23 2406(g)(3)) is amended by amending the second sentence to
24 read as follows: "If the Congress, within 60 days after the
25 date of its receipt of such report, does not adopt a joint reso-

1 lution approving such prohibition or curtailment, then such
2 prohibition or curtailment shall cease to be effective at the
3 end of that 60-day period.”.

4 (b) The third sentence of section 7(g)(3) of the Act is
5 amended by striking out “30-day” and inserting in lieu there-
6 of “60-day”.

7 LICENSING PROCEDURES

8 SEC. 120. (a) Section 10(c) of the Act (50 U.S.C. App.
9 2409(c)) is amended by striking out “90” and inserting in
10 lieu thereof “60”.

11 (b) Section 10(f)(2) of the Act is amended—

12 (1) by inserting “in writing” after “inform the ap-
13 plicant”; and

14 (2) by striking out “, and shall accord” and all
15 that follows through the end of the paragraph and in-
16 serting in lieu thereof a period and the following:
17 “Before a final determination with respect to the appli-
18 cation is made, the applicant shall be entitled—

19 “(A) to respond in writing to such questions, con-
20 siderations, or recommendations within 30 days after
21 receipt of such information from the Secretary; and

22 “(B) upon the filing of a written request with the
23 Secretary within 15 days after the receipt of such in-
24 formation, to respond in person to the department or

1 agency raising such questions, considerations, or rec-
2 ommendations.”.

3 (c) Section 10(f)(3) of the Act is amended—

4 (1) in the first sentence—

5 (A) by inserting “the proposed” before
6 “denial” the first two places it appears; and

7 (B) by striking out “denial” the third place it
8 appears and inserting in lieu thereof “determina-
9 tion to deny the application”; and

10 (2) by inserting after the first sentence the follow-
11 ing new sentence: “The Secretary shall allow the ap-
12 plicant at least 30 days to respond to the Secretary’s
13 determination before the license application is denied.”.

14 (d) Section 10 of the Act is amended—

15 (1) in the section heading by adding “; OTHER IN-
16 QUIRIES” after “APPLICATIONS”; and

17 (2) by adding at the end thereof the following new
18 subsections:

19 “(k) CHANGES IN REQUIREMENTS FOR APPLICA-
20 TIONS.—Except as provided in subsection (b)(3) of this sec-
21 tion, in any case in which, after a license application is sub-
22 mitted, the Secretary changes the requirements for such a
23 license application, the Secretary may request appropriate
24 additional information of the applicant, but the Secretary may

1 not return the application to the applicant without action be-
 2 cause it fails to meet the changed requirements.

3 “(l) OTHER INQUIRIES.—(1) In any case in which the
 4 Secretary receives a written request asking for the proper
 5 classification of a good or technology on the commodity con-
 6 trol list, the Secretary shall, within 10 days after receipt of
 7 the request, inform the person making the request of the
 8 proper classification.

9 “(2) In any case in which the Secretary receives a writ-
 10 ten request for information about the applicability of export
 11 license requirements under this Act to a proposed export
 12 transaction or series of transactions, the Secretary shall,
 13 within 30 days after receipt of the request, reply with that
 14 information to the person making the request.”.

15 ANNUAL REPORT

16 SEC. 121. Section 14 of the Act (50 U.S.C. App. 2413)
 17 is amended—

18 (1) by redesignating paragraphs (11) through (20)
 19 as paragraphs (12) through (21), respectively; and

20 (2) by inserting after paragraph (10) the following
 21 new paragraph:

22 “(11) the removal of export controls on goods
 23 pursuant to section 5(m);”.

TECHNICAL AMENDMENTS

SEC. 122. (a) Section 7(i)(1) of the Act (50 U.S.C. App. 2406(i)(1)) is amended in the last sentence by inserting “harvested from State or Federal lands” after “red cedar logs”.

(b) Section 17(a) of the Act (50 U.S.C. App. 2416(a)) is amended by striking out “Nothing” and inserting in lieu thereof “Except as otherwise provided in this Act, nothing”.

(c) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out “(f)” and inserting in lieu thereof “(g)”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 123. (a) Section 18 of the Act (50 U.S.C. App. 2417) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—(1) Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act may be obligated or expended only if—

“(A) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of the Export Administration Amendments Act of 1983; or

1 “(B) the amount of all such obligations and ex-
2 penditures does not exceed an amount previously pre-
3 scribed by law enacted on or after such date.

4 “(2) To the extent that legislation enacted after the
5 making of an appropriation to carry out the purposes of this
6 Act authorizes the obligation or expenditure thereof, the limi-
7 tation contained in paragraph (1) shall have no effect.

8 “(3) The provisions of this subsection shall not be super-
9 seded except by a provision of law enacted after the date of
10 the enactment of the Export Administration Amendments
11 Act of 1983 which specifically repeals, modifies, or super-
12 sedes the provisions of this subsection.

13 “(b) AUTHORIZATION.—There are authorized to be ap-
14 propriated to the Department of Commerce to carry out the
15 purposes of this Act—

16 “(1) \$24,600,000 for each of the fiscal years
17 1984 and 1985, of which for each such fiscal year
18 \$15,000,000 shall be available only for enforcement,
19 \$2,100,000 shall be available only for foreign availabil-
20 ity assessments under subsections (f) and (h)(6) of sec-
21 tion 5 of this Act, and \$7,500,000 shall be available
22 for all other activities under this Act; and

23 “(2) such additional amounts for each such fiscal
24 year as may be necessary for increases in salary, pay,

1 retirement, other employee benefits authorized by law,
2 and other nondiscretionary costs.”.

3 (b) The amendment made by subsection (a) shall take
4 effect on October 1, 1983.

5 **TERMINATION OF AUTHORITY**

6 **SEC. 124.** Section 20 of the Act (50 U.S.C. App. 2419)
7 is amended to read as follows:

8 **“TERMINATION DATE**

9 **“SEC. 20.** The authority granted by this Act terminates
10 on September 30, 1985.”.

11 **HOURS OF OFFICE OF EXPORT ADMINISTRATION**

12 **SEC. 125.** The Secretary shall modify the office hours of
13 the Office of Export Administration of the Department of
14 Commerce on at least four days of each workweek so as to
15 accommodate communications to the Office by exporters
16 throughout the continental United States during the normal
17 business hours of those exporters.

18 **TITLE II—EXPORT PROMOTION PROGRAMS**

19 **REQUIREMENT OF PRIOR AUTHORIZATION**

20 **SEC. 201.** (a) Notwithstanding any other provision of
21 law, money appropriated to the Department of Commerce for
22 expenses to carry out any export promotion program may be
23 obligated or expended only if—

1 (1) the appropriation thereof has been previously
2 authorized by law enacted on or after the date of the
3 enactment of this Act; or

4 (2) the amount of all such obligations and expend-
5 itures does not exceed an amount previously prescribed
6 by law enacted on or after such date.

7 (b) To the extent that legislation enacted after the
8 making of an appropriation to carry out any export promotion
9 program authorizes the obligation or expenditure thereof, the
10 limitation contained in subsection (a) shall have no effect.

11 (c) The provisions of this section shall not be superseded
12 except by a provision of law enacted after the date of the
13 enactment of this Act which specifically repeals, modifies, or
14 supersedes the provisions of this section.

15 (d) For purposes of this title, the term “export promo-
16 tion program” means any activity of the Department of Com-
17 merce designed to stimulate or assist United States business-
18 es in marketing their goods and services abroad competitively
19 with businesses from other countries, including but not limit-
20 ed to—

21 (1) trade development (except for the trade adjust-
22 ment assistance program) and dissemination of foreign
23 marketing opportunities and other marketing informa-
24 tion to United States producers of goods and services,
25 including the expansion of foreign markets for United

1 States textiles and apparel and any other United States
2 products;

3 (2) the development of regional and multilateral
4 economic policies which enhance United States trade
5 and investment interests, and the provision of market-
6 ing services with respect to foreign countries and re-
7 gions;

8 (3) the exhibition of United States goods in other
9 countries; and

10 (4) the operations of the United States Commer-
11 cial Service and the Foreign Commercial Service, or
12 any successor agency.

13 AUTHORIZATION OF APPROPRIATIONS

14 SEC. 202. There is authorized to be appropriated for
15 each of the fiscal years 1984 and 1985 to the Department of
16 Commerce to carry out export promotion programs
17 \$100,458,000.

18 BARTER ARRANGEMENTS

19 SEC. 203. (a) The President shall, not later than one
20 hundred eighty days after the date of the enactment of this
21 Act, submit to the Congress a contingency plan for the pro-
22 motion of exports of agricultural commodities through the
23 bartering of surplus agricultural commodities produced in the
24 United States for petroleum and petroleum products, and for
25 other materials vital to the national interest, which are pro-

1 duced abroad, and make recommendations as to the feasibil-
2 ity of implementing such bartering.

3 (b) Notwithstanding any other provision of law, the
4 President is authorized—

5 (1) to barter stocks of agricultural commodities ac-
6 quired by the Government for petroleum and petroleum
7 products, and for other materials vital to the national
8 interest, which are produced abroad, in situations in
9 which sales would otherwise not occur; and

10 (2) to purchase petroleum and petroleum products,
11 and other materials vital to the national interest, which
12 are produced abroad and acquired by persons in the
13 United States through barter for agricultural commod-
14 ities produced in and exported from the United States
15 through normal commercial trade channels.

16 (c) The President shall take steps to insure that any
17 barter described in subsections (a) and (b)(1) and any pur-
18 chases authorized by subsection (b)(2) safeguard existing
19 export markets for agricultural commodities operating on
20 conventional business terms from displacement by barter de-
21 scribed in subsections (a), (b)(1), and (b)(2).

22 TITLE III—SOUTH AFRICA

23 SHORT TITLE

24 SEC. 301. This title may be cited as the “United States
25 Policy Toward South Africa Act of 1983”.

SUBTITLE 1—LABOR STANDARDS

ENDORSEMENT AND IMPLEMENTATION OF FAIR

EMPLOYMENT PRINCIPLES

SEC. 311. Any United States person who—

(1) has a branch or office in South Africa, or

(2) controls a corporation, partnership, or other enterprise in South Africa,

in which more than twenty people are employed shall take the necessary steps to insure that, in operating such branch, office, corporation, partnership, or enterprise, those principles relating to employment practices set forth in section 312 of this Act are implemented.

STATEMENT OF PRINCIPLES

SEC. 312. (a) The principles referred to in section 311 of this Act are as follows:

(1) Desegregating the races in each employment facility, including—

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work facilities; and

(C) terminating all regulations which are based on racial discrimination.

(2) Providing equal employment for all employees, including—

1 (A) assuring that any health, accident, or
2 death benefit plans that are established are non-
3 discriminatory and open to all employees, whether
4 they are paid a salary or are compensated on an
5 hourly basis; and

6 (B) implementing equal and nondiscrimina-
7 tory terms and conditions of employment for all
8 employees, and abolishing job reservations, job
9 fragmentation, apprenticeship restrictions for
10 blacks and other nonwhites, and differential em-
11 ployment criteria, which discriminate on the basis
12 of race or ethnic origin.

13 (3) Establishing equal pay for all employees doing
14 equal or comparable work, including—

15 (A) establishing and implementing, as soon
16 as possible, a wage and salary structure which is
17 applied equally to all employees, regardless of
18 race, who are engaged in equal or comparable
19 work;

20 (B) reviewing the distinction between hourly
21 and salaried job classifications, and establishing
22 and implementing an equitable and unified system
23 of job classifications which takes into account such
24 review; and

1 (C) eliminating inequities in seniority and in-
2 grade benefits so that all employees, regardless of
3 race, who perform similar jobs are eligible for the
4 same seniority and ingrade benefits.

5 (4) Establishing a minimum wage and salary
6 structure based on a cost-of-living index which takes
7 into account the needs of employees and their families.

8 (5) Increasing, by appropriate means, the number
9 of blacks and other nonwhites in managerial, supervi-
10 sory, administrative, clerical, and technical jobs for the
11 purpose of significantly increasing the representation of
12 blacks and other nonwhites in such jobs, including—

13 (A) developing training programs that will
14 prepare substantial numbers of blacks and other
15 nonwhites for such jobs as soon as possible, in-
16 cluding—

17 (i) expanding existing programs and
18 forming new programs to train, upgrade, and
19 improve the skills of all categories of em-
20 ployees, and

21 (ii) creating on-the-job training pro-
22 grams and facilities to assist employees to
23 advance to higher paying jobs requiring
24 greater skills;

1 (B) establishing procedures to assess, identi-
2 fy, and actively recruit employees with potential
3 for further advancement;

4 (C) identifying blacks and other nonwhites
5 with high management potential and enrolling
6 them in accelerated management programs;

7 (D) establishing and expanding programs to
8 enable employees to further their education and
9 skills at recognized education facilities; and

10 (E) establishing timetables to carry out this
11 paragraph.

12 (6) Taking reasonable steps to improve the quality
13 of employees' lives outside the work environment with
14 respect to housing, transportation, schooling, recrea-
15 tion, and health, including—

16 (A) providing assistance to black and other
17 nonwhite employees for housing, health care,
18 transportation, and recreation either through the
19 provision of facilities or services or providing fi-
20 nancial assistance to employees for such purposes,
21 including the expansion or creation of in-house
22 medical facilities or other medical programs to im-
23 prove medical care for black and other nonwhite
24 employees and their dependents; and

1 (B) participating in the development of
2 programs that address the education needs of
3 employees, their dependents, and the local com-
4 munity.

5 (7) Recognizing labor unions and implementing
6 fair labor practices, including—

7 (A) recognizing the right of all employees,
8 regardless of racial or other distinctions, to self-
9 organization and to form, join, or assist labor or-
10 ganizations, freely and without penalty or reprisal,
11 and recognizing the right to refrain from any such
12 activity;

13 (B) refraining from—

14 (i) interfering with, restraining, or co-
15 ercing employees in the exercise of their
16 rights of self-organization under this para-
17 graph,

18 (ii) dominating or interfering with the
19 formation or administration of any labor or-
20 ganization, or sponsoring, controlling, or con-
21 tributing financial or other assistance to it,

22 (iii) encouraging or discouraging mem-
23 bership in any labor organization by discrimi-
24 nation in regard to hiring, tenure, promotion,
25 or other condition of employment,

1 (iv) discharging or otherwise disciplining
2 or discriminating against any employee who
3 has exercised any rights of self-organization
4 under this paragraph, and

5 (v) refusing to bargain collectively with
6 any organization freely chosen by employees
7 under this paragraph;

8 (C) allowing employees to exercise rights of
9 self-organization, including solicitation of fellow
10 employees during nonworking hours, allowing dis-
11 tribution and posting of union literature by em-
12 ployees during nonworking hours in nonworking
13 areas, and allowing reasonable access to labor or-
14 ganization representatives to communicate with
15 employees on employer premises at reasonable
16 times;

17 (D) allowing employee representatives to
18 meet with employer representatives during work-
19 ing hours without loss of pay for purposes of col-
20 lective bargaining, negotiation of agreements, and
21 representation of employee grievances;

22 (E) regularly informing employees that it is
23 company policy to consult and bargain collectively
24 with organizations which are freely elected by the
25 employees to represent them; and

1 (F) utilizing impartial persons mutually
2 agreed upon by employer and employee repre-
3 sentatives to resolve disputes concerning election
4 of representatives, negotiation of agreements or
5 grievances arising thereunder, or any other mat-
6 ters arising under this paragraph.

7 (b) The Secretary may issue guidelines and criteria to
8 assist persons who are or may be subject to this subtitle in
9 complying with the principles set forth in subsection (a) of
10 this section. The Secretary may, upon request, give an advi-
11 sory opinion to any person who is or may be subject to this
12 subtitle as to whether that person is subject to this subtitle or
13 would be considered to be in compliance with the principles
14 set forth in subsection (a).

15 ADVISORY COUNCILS

16 SEC. 313. (a) The Secretary shall establish in South
17 Africa an Advisory Council (1) to advise the Secretary with
18 respect to the implementation of those principles set forth in
19 section 312(a), and (2) to review periodically the reports sub-
20 mitted pursuant to section 314(a) and, where necessary, to
21 supplement the information contained in such reports. The
22 Advisory Council shall be composed of ten members appoint-
23 ed by the Secretary from among persons representing trade
24 unions committed to nondiscriminatory policies, the United
25 States Chamber of Commerce in South Africa, and the South

1 African academic community, and from among South African
2 community and church leaders who have demonstrated a con-
3 cern for equal rights. In addition to the ten appointed mem-
4 bers of the Advisory Council, the United States Ambassador
5 to South Africa shall be a member of the Advisory Council,
6 ex officio.

7 (b) The Secretary shall establish in the United States an
8 American Advisory Council to make policy recommendations
9 with respect to the labor practices of United States persons
10 in South Africa and to review periodically the progress of
11 such persons in carrying out the provisions of section 311 of
12 this Act. The American Advisory Council shall be composed
13 of 11 members appointed by the Secretary from among quali-
14 fied persons, including officers and employees of the Depart-
15 ment of State, the Department of Commerce, the Depart-
16 ment of Labor, and the Equal Employment Opportunity
17 Commission, and representatives of labor, business, civil
18 rights, and religious organizations. The Secretary shall pub-
19 lish in the Federal Register any recommendations made by
20 the American Advisory Council under this subsection.

21 (c) Members of the Advisory Council in South Africa
22 and of the American Advisory Council shall be appointed for
23 3-year terms, except that of the members first appointed,
24 three on each Council shall be appointed for terms of two
25 years, and three on each Council shall be appointed for terms

1 of one year, as designated at the time of their appointment.
2 Any member appointed to fill a vacancy occurring before the
3 expiration of the term for which the predecessor of such
4 member was appointed shall be appointed only for the re-
5 mainder of such term.

6 (d) The United States Ambassador to South Africa shall
7 provide to the Advisory Council in South Africa the neces-
8 sary clerical and administrative assistance. The Secretary
9 shall provide such assistance to the American Advisory
10 Council.

11 (e) Members of the Advisory Council in South Africa
12 and of the American Advisory Council shall serve without
13 pay, except that, while away from their homes or regular
14 places of business in the performance of services for the re-
15 spective Councils, members of the Advisory Councils shall be
16 allowed travel expenses, including per diem in lieu of subsist-
17 ence, in the same manner as persons employed intermittently
18 in the Government service are allowed expenses under sec-
19 tion 5703 of title 5, United States Code.

20 **ENFORCEMENT; SANCTIONS**

21 **SEC. 314.** (a) Each United States person referred to in
22 section 311 of this Act shall submit to the Secretary (1) a
23 detailed and fully documented annual report on the progress
24 of that person in complying with the provisions of this subti-

1 tle, and (2) such other information as the Secretary deter-
2 mines is necessary.

3 (b) In order to insure compliance with this subtitle and
4 any regulations issued to carry out this subtitle, the
5 Secretary—

6 (1) shall establish mechanisms to monitor such
7 compliance, including onsite monitoring with respect to
8 each United States person referred to in section 311 of
9 this Act at least once in every two-year period;

10 (2) shall make reasonable efforts within a reason-
11 able period of time to secure such compliance by
12 means of conference, conciliation, mediation, and per-
13 suasion;

14 (3) shall, in any case in which the Secretary has
15 reason to believe that any person has furnished the
16 Secretary with false information relating to the provi-
17 sions of this subtitle, recommend to the Attorney Gen-
18 eral that criminal proceedings be brought against such
19 person; and

20 (4) may conduct investigations, hold hearings, ad-
21 minister oaths, examine witnesses, receive evidence,
22 take depositions, and require by subpoena the attend-
23 ance and testimony of witnesses and production of all
24 books, papers, and documents relating to any matter
25 under investigation.

1 (c) The Secretary shall, within ninety days after giving
2 notice and an opportunity for a hearing to each United States
3 person referred to in section 311 of this Act, make a determi-
4 nation with respect to the compliance of that United States
5 person with the provisions of this subtitle and any regulations
6 issued to carry out this subtitle.

7 (d)(1) Any United States person with respect to whom
8 the Secretary makes a determination under subsection (c) or
9 (f) of this section either that the person is not in compliance
10 with this subtitle or any regulations issued to carry out this
11 subtitle, or that the compliance of the person with this subti-
12 tle or those regulations cannot be established on account of a
13 failure to provide information to the Secretary or on account
14 of the provision of false information to the Secretary, may
15 not—

16 (A) export any goods or technology directly or in-
17 directly to South Africa; or

18 (B) use the services of the Export-Import Bank of
19 the United States.

20 (2)(A) In addition to the penalties set forth in paragraph
21 (1), the Secretary may impose upon any United States person
22 subject to those penalties—

23 (i) if other than an individual, a fine of not more
24 than \$1,000,000, or

1 (ii) if an individual, a fine of not more than
2 \$50,000.

3 (B)(i) Any officer, director, or employee of a United
4 States person subject to the penalties set forth in subpara-
5 graph (A), or any individual in control of that United States
6 person, who knowingly and willfully ordered, authorized, ac-
7 quiesced in, or carried out the act or practice constituting the
8 violation involved and (ii) any agent of such United States
9 person who knowingly and willfully carried out such act or
10 practice, shall be subject to a fine, imposed by the Secretary,
11 of not more than \$10,000.

12 (C) A fine imposed under subparagraph (B) may not be
13 paid, directly or indirectly, by the United States person com-
14 mitting the violation involved.

15 (D) The payment of any fine imposed under this para-
16 graph shall be deposited in the miscellaneous receipts of the
17 Treasury. In the event of the failure of any person to pay a
18 fine imposed under this paragraph, the fine may be recovered
19 in a civil action in the name of the United States brought by
20 the Secretary in an appropriate United States district court.

21 (3) Any United States person who violates the provi-
22 sions of paragraph (1)(A) of this subsection shall, in addition
23 to any other penalty specified in this subtitle, be fined, for
24 each such violation, not more than five times the value of the
25 exports involved or \$50,000, whichever is greater, or impris-

1 oned not more than five years, or both. For purposes of para-
2 graph (1)(A) of this subsection, “goods” and “technology”
3 have the same meanings as are given those terms in para-
4 graphs (3) and (4) of section 16 of the Export Administration
5 Act of 1979 (50 U.S.C. App. 2415).

6 (c) The Secretary shall issue an order carrying out any
7 penalty imposed under paragraph (1) or (2) of subsection (d).

8 (f)(1) The Secretary shall, at least once in every two-
9 year period, review and, in accordance with subsection (c),
10 make a redetermination with respect to the compliance of
11 each United States person referred to in section 311 of this
12 Act with the provisions of this subtitle and any regulations
13 issued to carry out this subtitle.

14 (2) In the case of any United States person with respect
15 to whom the Secretary makes a determination under subsec-
16 tion (c) or paragraph (1) of this subsection either that the
17 person is not in compliance with this subtitle or any regula-
18 tions issued to carry out this subtitle, or that the compliance
19 of the person with this subtitle or those regulations cannot be
20 established on account of a failure to provide information to
21 the Secretary or on account of the provision of false informa-
22 tion to the Secretary, the Secretary shall, upon the request of
23 that person and after giving that person an opportunity for a
24 hearing, review and redetermine that person’s compliance
25 within sixty days after that person files the first annual report

1 pursuant to subsection (a) of this section after the negative
2 determination is made.

3 (g) Any United States person aggrieved by a determina-
4 tion of the Secretary under subsection (c) or (f) of this section
5 may seek judicial review of that determination in accordance
6 with the provisions of chapter 7 of title 5, United States
7 Code.

8 (h) The Secretary shall submit an annual report to the
9 Congress on the compliance of those United States persons
10 referred to in section 311 of this Act with the provisions of
11 this subtitle.

12 **REGULATIONS**

13 **SEC. 315.** (a) The Secretary shall, after consulting with
14 the Advisory Councils established pursuant to section 313 of
15 this Act, issue such regulations as are necessary to carry out
16 this subtitle. Such regulations shall be issued not later than
17 one hundred and eighty days after the date of the enactment
18 of this Act. The Secretary shall establish dates by which
19 United States persons must comply with the different provi-
20 sions of this subtitle, except that the date for compliance with
21 all the provisions of this subtitle shall not be later than one
22 year after the date of the enactment of this Act.

23 (b) Before issuing final regulations pursuant to subsec-
24 tion (a), the Secretary shall publish in the Federal Register
25 the regulations proposed to be issued and shall give interest-

1 ed persons at least thirty days to submit comments on the
 2 proposed regulations. The Secretary shall, in issuing the final
 3 regulations, take into account the comments so submitted.

4 WAIVER OR TERMINATION OF PROVISIONS

5 SEC. 316. (a) In any case in which the President deter-
 6 mines that compliance by a United States person with the
 7 provisions of this subtitle would harm the national security of
 8 the United States, the President may waive those provisions
 9 with respect to that United States person if the President
 10 publishes each waiver in the Federal Register and submits
 11 each waiver and the justification for the waiver to the Con-
 12 gress and if the Congress enacts a joint resolution approving
 13 the waiver.

14 (b) Upon a written determination by the President that
 15 the Government of South Africa has terminated its practice
 16 of systematic racial discrimination and allows all the people
 17 of South Africa, regardless of race or ethnic origin, to partici-
 18 pate fully in the social, political, and economic life in that
 19 country, the provisions of this subtitle and any regulations
 20 issued to carry out this subtitle shall cease to be effective.

21 Subtitle 2—Prohibition on Loans and Importation of Gold

22 Coins

23 LOANS TO SOUTH AFRICA

24 SEC. 321. (a) No bank operating under the laws of the
 25 United States may make any loan directly or through a for-

1 eign subsidiary to the South African Government or to any
2 corporation, partnership, or other organization which is
3 owned or controlled by the South African Government, as
4 determined under regulations issued by the Secretary. The
5 prohibition contained in this subsection shall not apply to
6 loans for educational, housing, or health facilities which are
7 available to all persons on a totally nondiscriminatory basis
8 and which are located in geographic areas accessible to all
9 population groups without any legal or administrative restric-
10 tion.

11 (b) The prohibition contained in subsection (a) of this
12 section shall not apply to any loan or extension of credit for
13 which an agreement is entered into before the date of the
14 enactment of this Act.

15 GOLD COINS

16 SEC. 322. No person, including any bank operating
17 under the laws of the United States, may import into the
18 United States any South African krugerrand or any other
19 gold coin minted in South Africa or offered for sale by the
20 South African Government.

21 ENFORCEMENT; PENALTIES

22 SEC. 323. (a) The Secretary, in consultation with the
23 Secretary of the Treasury and the Secretary of Commerce,
24 shall take the necessary steps to insure compliance with the
25 provisions of this subtitle, including—

1 (1) issuing such regulations as the Secretary con-
2 siders necessary to carry out this subtitle;

3 (2) establishing mechanisms to monitor compliance
4 with the provisions of this subtitle and any regulations
5 issued pursuant to paragraph (1) of this subsection;

6 (3) in any case in which the Secretary has reason
7 to believe that a violation of this subtitle has occurred
8 or is about to occur, referring the matter to the Attor-
9 ney General for appropriate action; and

10 (4) in any case in which the Secretary has reason
11 to believe that any person has furnished the Secretary
12 with false information relating to the provisions of this
13 subtitle, referring the matter to the Attorney General
14 for appropriate action.

15 (b)(1) Any person, other than an individual, that violates
16 section 321 or 322 of this Act shall be fined not more than
17 \$1,000,000.

18 (2) Any individual who violates section 321 of this Act
19 shall be fined not more than \$50,000, or imprisoned not more
20 than five years, or both.

21 (3) Any individual who violates section 322 of this Act
22 shall be fined not more than five times the value of the kru-
23 gerrands or gold coins involved.

24 (c)(1) Whenever a person violates section 321 or 322 of
25 this Act—

1 (A) any officer, director, or employee of such
2 person, or any natural person in control of such person,
3 who knowingly and willfully ordered, authorized, ac-
4 quiesced in, or carried out the act or practice constitut-
5 ing the violation, and

6 (B) any agent of such person who knowingly and
7 willfully carried out such act or practice,
8 shall, upon conviction, be fined not more than \$10,000, or
9 imprisoned not more than five years, or both.

10 (2) A fine imposed under paragraph (1) on an individual
11 for an act or practice constituting a violation may not be
12 paid, directly or indirectly, by the person committing the vio-
13 lation itself.

14 WAIVER BY PRESIDENT

15 SEC. 324. The President may waive the prohibitions
16 contained in sections 321 and 322 of this Act for a period of
17 not more than one year if the President determines that the
18 Government of South Africa has made substantial progress
19 toward the full participation of all the people of South Africa
20 in the social, political, and economic life in that country and
21 toward an end to discrimination based on race or ethnic
22 origin, if the President submits any such determination, and
23 the basis for the determination, to the Congress, and if the
24 Congress enacts a joint resolution approving the determina-
25 tion.

SUBTITLE 3—GENERAL PROVISIONS

COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

SEC. 331. (a) Each department and agency of the United States shall cooperate with the Secretary in carrying out the provisions of this title, including, upon the request of the Secretary, taking steps to insure compliance with the provisions of this title and any regulations issued to carry out this title.

(b) The Secretary may secure directly from any department or agency of the United States information necessary to enable the Secretary to carry out the Secretary's functions under this title.

DEFINITIONS

SEC. 332. For purposes of this title—

(1) the term "United States person" means any United States resident or national and any domestic concern (including any permanent domestic establishment of any foreign concern);

(2) the term "Secretary" means the Secretary of State;

(3) the term "South Africa" includes the Republic of South Africa; any territory under the administration, legal or illegal, of South Africa; and the "bantustans" or "homelands", to which South African blacks are as-

1 signed on the basis of ethnic origin, including the
2 Transkei, Bophuthatswana, and Venda; and

3 (4) a United States person shall be presumed to
4 control a corporation, partnership, or other enterprise
5 in South Africa if—

6 (A) the United States person beneficially
7 owns or controls (whether directly or indirectly)
8 more than 50 per centum of the outstanding
9 voting securities of the corporation, partnership,
10 or enterprise;

11 (B) the United States person beneficially
12 owns or controls (whether directly or indirectly)
13 25 per centum or more of the voting securities of
14 the corporation, partnership, or enterprise, if no
15 other person owns or controls (whether directly or
16 indirectly) an equal or larger percentage;

17 (C) the corporation, partnership, or enter-
18 prise is operated by the United States person pur-
19 suant to the provisions of an exclusive manage-
20 ment contract;

21 (D) a majority of the members of the board
22 of directors of the corporation, partnership, or en-
23 terprise are also members of the comparable gov-
24 erning body of the United States person;

1 (E) the United States person has authority to
2 appoint a majority of the members of the board of
3 directors of the corporation, partnership, or enter-
4 prise; or

5 (F) the United States person has authority to
6 appoint the chief operating officer of the corpora-
7 tion, partnership, or enterprise.

8 **APPLICABILITY TO EVASIONS OF TITLE**

9 **SEC. 333.** (a) Subtitle 1 of this title shall apply to any
10 United States person who undertakes or causes to be under-
11 taken any transaction or activity with the intent to evade the
12 provisions of subtitle 1 of this title or any regulations issued
13 to carry out that subtitle.

14 (b) Subtitle 2 of this title shall apply to any bank operat-
15 ing under the laws of the United States, or to any other
16 person, who or which undertakes or causes to be undertaken
17 any transaction or activity with the intent to evade the provi-
18 sions of subtitle 2 of this title or any regulations issued to
19 carry out that subtitle.

20 **CONSTRUCTION OF TITLE; SEVERABILITY**

21 **SEC. 334.** (a) Nothing in this title shall be construed as
22 constituting any recognition by the United States of the
23 homelands referred to in section 332(3) of this Act.

24 (b) If any provision of this title or the application of this
25 title to any person or circumstance is held invalid, neither the

- 1 remainder of this title nor the application of that provision to
- 2 other persons or circumstances shall be affected thereby.

